



Dated: June 20, 2018

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA

Minute Entry

Daniel P. Collins

Daniel P. Collins, Bankruptcy Judge

Hearing Information:

Debtor: MARSH AVIATION COMPANY
Case Number: 2:09-BK-23468-DPC Chapter: 11
Date / Time / Room: MONDAY, JUNE 18, 2018 11:00 AM 6TH FLOOR #603
Bankruptcy Judge: DANIEL P. COLLINS
Courtroom Clerk: RHONDA VAUGHAN
Reporter / ECR: RENEE BRYANT

Matter:

ORDER TO SHOW CAUSE
R / M #: 0 / 0

Appearances:

KELLY BLACK, ATTORNEY FOR MARSH AVIATION COMPANY
JENNIFER A. GIAIMO, ATTORNEY FOR U. S. TRUSTEE
BRADLEY STEVENS, ATTORNEY FOR R. LEE STEERS

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Proceedings:

The Court advises he received a copy of the The Ninth Circuit Court of Appeals' April 25, 2018 Memorandum decision in the case of *Marsh Aviation Co. v. Hardy Aviation Ins. Inc.*, 2018 WL 1940230 (9th Cir. Apr. 25, 2018). This Court is concerned that Marsh Aviation Company ("Marsh" or "Debtor") and its counsel may have failed to properly disclose an asset or potential asset (the "Fire Claim") of the Debtor's bankruptcy estate.

Mr. Steers addresses the 9th Circuit Order issued by Judge Susan Bolton. He advises a request to continue the briefing schedule to allow parties an opportunity to mediate was made of Judge Bolton, and the mediation is now scheduled for July 10, 2018. Mr. Steers directs his attention to his Response to Order to Show Cause and he addresses the Court's questions as outlined in the Order to Show Cause.

Ms. Giaimo agrees with the Court that the Order to Show Cause should be quashed as it relates to Mr. Steers. She has seen the Application to Employ Nunc Pro Tunc and in light of the fact that the U. S. Trustee does not object to the Order to Show Cause being quashed there is no objection to the Application to Employ.

Mr. Black directs his attention to the Response of Debtor and Counsel to Order to Show Cause. He addresses the Court's questions as outlined in the Order to Show Cause.

Mr. Ray agrees this claim should have been disclosed and the Disclosure Statement may have been deficient, but there was no intent to hide any assets. Mr. Ray advises upon speaking with Mr. Sanford there is no objection to having segregating and earmarking the \$64,000.00 for payment to creditors. He advises Marsh is not advocating for the disgorgement of any fees from Mr. Black, and advises Mr. Sanford is willing to set aside the \$50,000.00 in addition to the \$64,000.00.

Ms. Giaimo agrees that the Debtor's agreement to turnover \$64,000.00 is beneficial and a good resolution. Ms. Giaimo states her concerns related to Kelly

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Black and his failure to fulfil his duties. She argues the acts of Mr. Black are egregious and Mr. Black should have sanctions entered against him. Ms. Giaimo advises in light of the token payments being placed into escrow the Order to Show Cause as to the Debtor can be quashed. Ms. Giaimo advises the United States Trustee is not taking the position that there is evidence of fraud on part of the Debtor. She explains that is up to Judge Bolton to decide in her Court.

The Court understands that Ms. Giaimo is not pursuing a finding by this Court that there has been a fraud, or a finding that there has been the intent on anybody's part to deceive the Court or creditors. Because the Debtor has committed to escrow certain dollars to earmark directly to payment of the creditors of the plan the Order to Show Cause should be quashed.

The Court directs Ms. Giaimo and Mr. Black to confer regarding the issues in the Order to Show Cause.

COURT: IT IS ORDERED QUASHING THE ORDER TO SHOW CAUSE AS IT PERTAINS TO MR. STEERS. THE COURT WILL SIGN AN ORDER WHEN SUBMITTED BY MS. GIAIMO.

IT IS FURTHER ORDERED GRANTING THE APPLICATION TO EMPLOY R. LEE STEERS ON A NUNC PRO TUNC BASIS, AS THIS COURT FINDS EXTRAORDINARY CIRCUMSTANCES EXIST WARRANTING SUCH RELIEF. THE COURT WILL SIGN AN ORDER WHEN SUBMITTED BY MR. BLACK.

IT IS FURTHER ORDERED QUASHING THE ORDER TO SHOW CAUSE RELATED TO MARSH AVIATION COMPANY. THE COURT WILL SIGN AN ORDER WHEN SUBMITTED BY MS. GIAIMO.

IT IS FURTHER ORDERED SETTING A CONTINUED HEARING ON JULY 17, 2018, AT 10:00 A.M., ON THE ORDER TO SHOW CAUSE RELATING TO KELLY BLACK.

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